

1995

De Ette Gerbich v. Industrial Commission of Utah : Reply to Brief in Opposition

Utah Court of Appeals

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Wesley F. Sine; Attorney for Petitioner; Erie V. Boorman; Employer\'s Reinsurance Fund; Alan L. Hennebold; General Counsel; Industrial Commission of Utah.

Thomas C. Sturdy; Blackburn & Stoll; Attorneys for Respondents.

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UTAH COURT OF APPEALS
CHIEF

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Attorney for the Plaintiff
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UTAH
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DOCKET NO. 950816 CA

IN THE COURT OF APPEALS
STATE OF UTAH

DE ETTE GERBICH,)	
)	
Petitioner)	REPLY TO OPPOSITION TO
)	DE ETTE GERBICH PETITION
FOR)	FOR WRIT OF CERTIORARI
vs)	
)	
THE INDUSTRIAL COMMISSION OF UTAH)	Case No. 950816 CA
(HOLY CROSS JORDAN VALLEY HOSPITAL))	
CONTINENTAL RISK MANAGEMENT, and)	
EMPLOYERS' REINSURANCE FUND)	
)	
Respondent.)	

REPLY PETITION FOR WRIT OF CERTIORARI TO OPPOSITION OF
RESPONDENTS.

Respondents:

Erie V. Boorman, Esq.
Employers Reinsurance Fund
160 East 300 South, Third Floor
Salt Lake City, Utah 84114-6612

Thomas C. Strudy, Esq.
Blackburn & Stoll, L.C.
77 West 200 South, Suite 400
Salt Lake City, Utah 84101-1609

Alan Henebold
Industrial Commission
160 East 300 South, Third Floor
Salt Lake City, Utah 84114

Petitioner:

WESLEY F. SINE, ESQ.
Attorney for Petitioner
Beneficial Towers 12'th Floor
36 South State Street
Salt Lake City, Utah 84111

FILED

DEC 18 1996

CLERK SUPREME COURT
UTAH

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36 South State Street
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Respondent.)	

PETITIONER'S REPLY

ADDITIONAL STATEMENT OF FACTS

1. The first injury to Petitioner Gerbich happened on 4/11/89 at 18:30 while she was lifting a patient for a CT Scan. See record page 00538 and exhibit "E" of this brief. An Industrial Commission Medical Report was filled out by the treating physical. This injury according to the Doctor's (signed by Paul E. Pilgram, M.D.) report was not due to a pre-existing condition. The Doctor further went on to state that it was "unclear" if the injury was permanent. Dr. Pilgram's report goes on to explain what he found from his examination.

2. The Respondent produced no evidence to counter the fact

that an injury had occurred or that the injury was job related.

3. The Second injury occurred on January 10, 1990 at 14:00 hours and was reported by the employer per the Industrial Commission Medical Report signed by Dr. Ruth H. Filloux. See Exhibit "F" record page 00552. The treating Doctors opinion was that this injury was not related to a pre-existing condition of the Petitioner. The Medical Report further states that the injury was sustained when Petitioner slipped on the floor at work. At this time she injured her Left knee, right ankle, and right shoulder. In the Physician Report(record page 00550) the Doctor finds that the left knee had well healed surgical scars but that there was a moderate effusion, range of motion is limited by pain and swelling and that X Ray shows no acute disease.

The Respondent produced no subsequent evidence to contradict the Doctors findings at the time of the accident.

4. The third injury happened on October 24, 1990. The Industrial Report states that the Petitioner slipped in the parking lot on 10/19/90 and suffered an acute sprain/contusion on her left knee. (See record page 00578 and exhibit "G") As to pre-existing condition the Doctor stated No and placed a "?". Dr. Filloux was the treating physical for the Petitioners January injury to the left knee. As relating to the permanence of her injury, the Doctor stated unknown. In the Doctors Emergency Report (record page 00577) the Doctor states that the Petitioner reinjured her left knee and refers to the injury of 1/90.

Interestingly she also refers to the previous surgery as remote. The Doctor also refers to the acute sprain / contusion of the left knee.

The Respondents have presented no evidence to contradict this injury both as to its having happened or being job related.

5. The fourth injury occurred on the 17'th day of April 1991. See Industrial Commission Medical Report record page 00586 and exhibit "H" of the brief. This injury according to the report was caused by a film bin falling on her right knee. In the Doctors opinion this was not caused by a pre-existing condition and would not be permanent injury. It is hard to read the attending physicians name but this was a hospital record and since no contrary evidence was presented must be assumed to be accurate.

The Physician Report (see record page 00584 and exhibit "H") does not refer to any prior operation as was done in the reports on the left knee and it must therefore be assumed there was none. X Rays were taken of the knee which showed multiple bony spurs and arthritic changes but nothing remarkable. Certainly nothing was stated in the Physician Report which found that the knee would need to be replaced now or in the future.

6. The fifth injury happened on August 8, 1991 (see record page 00593 or exhibit "I") while the Petitioner was lifting and assisting a 280 pound Patient from the CT table. The Industrial Commission Medical Report was filled out by Dr. Paul E. Pilgram who found no pre-existing condition caused the injury. On the

Physician Report although arthritis is mentioned, no direct information is given as to where or to what extent it might be. Certainly the non specifics would mean that it was not contributing to the injury of the Petitioner.

7. The Petitioner presented a letter from her treating physician, Dr. Kevin B. Johnson (see record page 00288 or exhibit "A") wherein the Doctor stated that it was his opinion that petitioner's MULTIPLE ACCIDENTS have totally disabled her from work due to her immobility. The Respondents did not present any evidence either written or oral to contradict this opinion of the Doctor.

8. The Petitioner presented a letter from her treating physician Dr. Merendino, (see record 00452 or exhibit "B") where he found that her right knee was disabled in the amount of 20% for a whole person disability of 12%. No evidence of the Respondent was presented to contradict that evidence.

9. The Petitioner presented a letter from Dr. Gary R. Zeluff (see record page 0230 or exhibit "C") which states that the petitioner suffered from an impairment of 29% of the whole person from the various injuries including the left knee, right knee and right shoulder. No contradiction was presented by the Respondents to this opinion.

POINT I
AS SHOWN BY THE STATEMENT OF FACTS, PETITIONER MARSHALED
THE EVIDENCE PROVING THAT SHE WAS INJURED AND SHOULD HAVE
RECEIVED FULL DISABILITY

The Court of Appeals should not have affirmed the Industrial Commission's finding that Petitioner failed to prove her case.

All of the evidence presented showed that the Petitioner had been injured, had been injured on the job, and was permanently disabled. The Respondent brought nothing to light which would prove that the injuries were not job related, did not happen on the job, and were not permanent in nature. All of the Petitioners evidence was objective in nature, the Respondents was subjective in that because of prior consistencies, Respondents tried to find that the five injuries in question should also be questioned. The only problem is that no objective facts were brought forward to prove their position. No Doctor reports were presented to support their subjective theory that the petitioner was lying. The various reports of the Doctors was never explained away by the Respondents.

The Respondents have looked at Petitioners prior medical record and have tried to develop it to state that the Petitioner was already suffering from the injuries prior to her taking the position at the hospital. They have not explained though how she could have functioned in her position, lifting patients on to the table, working long hours each day, etc. for over three years before her employer determined that she could no longer function in her position.

The Respondents have not presented any argument or evidence

to explain how the treating physicians found that the injuries were not caused by a pre-existing condition as stated in each of the Industrial Commission Medical Reports except for the one which mentioned the prior job related injury.

The Respondents have not presented any objective evidence to contradict the opinion of Dr. Kevin Johnson that the Petitioner was permanently disabled from the prior injuries.

While the Respondent has tried to substantiate discrepancies between Petitioners Memory and medical reports over a 20 year period, it has not taken on the compelling evidence of the injuries, their job related nature, and their permanency as shown by the exhibits proffered by the Petitioner in this Reply.

While the ALJ could have found that the Petitioner was mistaken, had a faulty memory, or lied about some items, none of the evidence which related to her injuries was ever contradicted by the Respondent except for one co worker who stated that the Petitioner had told her that she injured her ribs at home when exiting or entering her truck. There was no testimony that this injury was the one which Petitioner reported as a job related injury plus there were four other injuries that no contradicting evidence was presented for.

The ALJ with the evidence from the Petitioner could not in good conscious have found against the Petitioner. The only up to date information before him, was contained in the Physician Reports, the Industrial Commission Medical Reports, and the various letters from the Petitioners treating Physicians. These

documents were supported by the Petitioners own testimony. No information was provided by the Respondent to contradict them. Some of the information contained in the reports contradicted prior medical reports and so either those reports were wrong or the condition of the Petitioners knees had improved.

What happened years before are not important so long as there is no connection between them and the present. In each case the treating physician found that there was no pre-existing condition contributing to the current injury. Dr. Johnson found the Petitioner to be permanently disabled due to the various accidents which she had suffered on the job.

POINT II
THE COURT OF APPEALS WAS NOT CORRECT IN
AFFIRMING THE INDUSTRIAL COMMISSION'S DETERMINATION
THAT GERBICH'S LACK OF CREDIBILITY DEFEATED HER CLAIM

The respondent has taken the position that Petitioner Gerbich's statements were self serving and were unsupported. That is not true. The accidents and the injuries were all objectively confirmed by the various reports filled out and signed by the treating physicians. To the question of if the injury was a pre-existing condition, each physician gave their opinion that they were not except in the one case of the second left knee injury of October 10, 1990 and that was related back to the on the job injury of January 10, 1990.

Contrary to the Respondents statement there is nothing in the record which states anything about what the Petitioner may or may not have told her treating physicians. The treating physicians looked at her, checked her X Rays and made their own

determination of whether this injury was from a pre-existing condition. In each case they found a connection between the present injury and the on the job accident. Certainly the Doctors opinions are worth of belief where there is no conflicting evidence to suggest that they are not worthy of belief. These opinions support the Petitioners testimony on the specific accidents and injuries. Objective proof of the accident and the injury.

All of the documents furnished classified as Industrial Commission Medical Reports, and Physician reports are part of the business records of the Respondents employer. As such they must be assumed to have been done in a truthful manner to reflect what is happening to the company. These records are public and are prepared and filed pursuant to law and without contradicting evidence must be presumed to be truthful. Certainly, the Petitioner did not have control or access to them.

The employer during the period of time when the above accidents happened, never once stepped forward and asserted that the injuries did not happen on the job and were not job related. To come forward now and by innuendo try to discredit the various reports on the accidents and the injuries sustained therefore is inappropriate especially where the only evidence being used is that the ALJ found that the Petitioner was untruthful. That finding can not extend to the various records of the Petitioners and their representatives and doctors. Certainly in those areas the testimony of the Petitioner must be assumed to be truthful.

There is the question of the Affidavit which the Petitioner gave in another case that if given certain considerations were extended, she could to the work.

That affidavit was presented to the court after the hearing. The Petitioner was not given an opportunity to explain what was meant by the Affidavit. Due Process should prohibit its even being used by the court in its determination. It should not have been mentioned and according to the ALJ was not a basis of his decision.

Furthermore the offer to the Respondent was never accepted because the Respondent knew that the Petitioner was disabled and unable to work. Doctor Johnson diagnosed the Petitioner as unable to work due to her injuries. The petitioner in this matter was not an expert and while she might have been hopeful, was still unable to work.

CONCLUSION

As shown by the Petitioner, the ALJ, the Industrial Commission, and the Court of Appeals have ignored the objective evidence presented by the Petitioner and the lack thereof presented by the Respondent, and have improperly ruled against the Petitioner based upon subjective feelings. There is no evidence presented by the Respondent or found in the Petitioner's records which supports the findings of the ALJ, the Industrial Commission, and the Court of Appeals.

The evidence of the Petitioner pertaining to the five injuries and here disability there from was not discredited. The

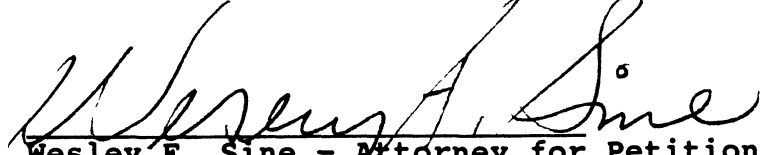
Industrial Commission Medical Reports, the Physicians Reports, and the Physicians opinions of the Petitioners conditions all supported the facts that (1) the accident was job related, (2) the injuries were not from a pre-existing condition, and (3) the injuries accumulatively created a permanent disability in the Petitioner for which compensation should be forthcoming. Dr. Johnson stated that Petitioner was permanently disabled.

For the ALJ, Industrial Commission, and the Court of Appeals to determine otherwise, places them in a position that they are analyzing medical evidence as experts against the evidence from a Medical Expert. The only evidence being from Petitioners Doctors who all testified in her favor.

Based upon the evidence presented, the only conclusion which was reasonable to find was that (1) the accidents were job related, (2) the injuries were not from a pre-existing condition, and (3) the Petitioner was permanently disabled from those injuries.

For the foregoing reasons, Petitioner pleads that for justice to be met, this court must exercise its supervisory right and the Writ of Certiorari should be allowed.

RESPECTFULLY SUBMITTED THIS 18'TH DAY OF December 1996.


Wesley F. Sine - Attorney for Petitioner
De Ette Gerbich

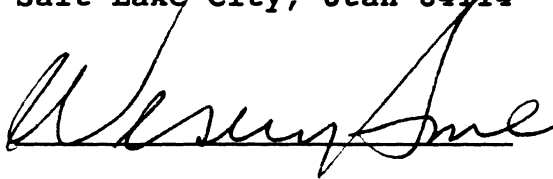
CERTIFICATION OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing Petition for Writ of Certiorari was mailed to the following, this 18'th day of December 1996.

Thomas C. Strudy, Esq.
Blackburn & Stoll, L.C.
77 West 200 South, Suite 400
Salt Lake City, Utah 84101-1609

Erie V. Boorman, Esq.
Employers Reinsurance Fund
160 East 300 South, Third Floor
P.O. Box 146612
Salt Lake City, Utah 84114-6612

Industrial Commission of Utah
160 East 300 South, Third Floor
Salt Lake City, Utah 84114

A handwritten signature in black ink, appearing to read "W. Strudy", is written over a horizontal line.

APPENDIX

INDEX

EXHIBIT "A"	Opinion Letter from Dr. Kevin Johnson dated February 25, 1993 describing Petitioners total disability
EXHIBIT "B"	Opinion Letter from Dr. John Merendino dated March 9, 1993 describing Petitioners permanent disabilities
EXHIBIT "C"	Opinion Letter of March 23, 1993 from Dr. Gary R. Zeluff describing Petitioners permanent disabilities
EXHIBIT "E"	Copy of Employer's Report to Industrial Commission and Doctor's report for first accident of 4/11/89
EXHIBIT "F"	Copy of Employer's Report to Industrial Commission and Doctor's Report for second accident of 1/10/90
EXHIBIT "G"	Copy of Employer's Report to Industrial Commission and Doctors report of third accident of 10/19/90
EXHIBIT "H"	Copy of Employer Report to Industrial Commission and Doctor's report for fourth accident of 4/17/91
EXHIBIT "I"	Copy of Employer's Report to Industrial Commission and doctors report of fifth accident of 8/24/91.

KEVIN B. JOHNSON, M.D.

3590 West 9000 South, Suite 240

West Jordan, Utah 84084

Telephone 569-2384

EXHIBIT A

February 25, 1993

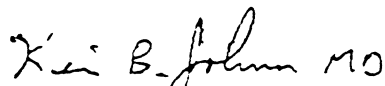
Virginus Dabney, Esq.
Dabney & Dabney, P. C.
350 South 400 East #202
Salt Lake City, Utah 84111

Re: DeEtte Gerbich

Dear Sirs:

I am unable to comply with your request for a permanent partial rating on DeEtte's industrial accidents, as I am unqualified to perform such ratings. I mentioned to Dee that in the past, patients of mine who have needed ratings, such as this, have seen Dr. Mark McGlothlin, who is a physiatrist and does this kind of thing all the time. The only thing I can say about her multiple accidents, is that it is my medical opinion that she is totally disabled from work as a result of these, largely because of her immobility.

Sincerely,



Kevin B. Johnson, M. D.

KBJ/slk

EXHIBIT B

ALTA VIEW

March 9, 1993

9844 SOUTH

1300 EAST

SUITE 100

SANDY UTAH

84094

(301) 571-9433

FAX (801) 578 5507

Dabney & Dabney, P.C.
Virginus Dabney
350 South 400 East
Suite 202
Salt Lake City, Utah 84111

RE. DeEtte Gerbich

AFFILIATE
OFFICES

Dear Mr. Dabney:

PARK CITY

649-KNEE

METRO SLC

392-KNEE

OR 533-3580

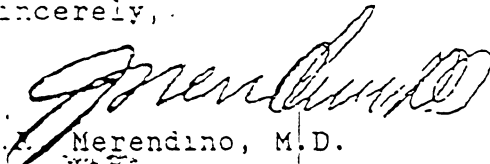
SNOW BIRD

NOV-MAY

DeEtte Gerbich presented today with stacks of forms to be filled out for permanent rating. I have informed her that I will be able to do the one regarding her right knee because I am involved in it. But regarding her left knee injury, left shoulder, right elbow, etc., she would have to find someone else to help her. I recommend that she see Ed Spencer who does this kind of work.

With regard to her right knee she has plateaued with range of motion between -5 and 120. Has tenderness throughout the entire knee. Has swelling which is mild, very hard to ascertain because of her obesity. She does not appear to have improved from my last visit with her. Based on these findings I would rate her at 20% of the knee which translates into 12% of the person. Patient is discharged pending any further problems.

Sincerely,


J. Merendino, M.D.

JRM/dr

JOHN MERENDINO, MD

CRAIG WESTIN, MD, PC

D-1
P. 452.

March 23, 1993

Virginius Dabney, Esq.
Debney & Debney, P.C.
Attorneys At Law
350 South 400 East, Suite 202
Salt Lake City, UT 84111

Re: DeEtte B. Gerbich
Injury Date: April 17, 1991
Employer: Holy Cross Jordan Valley Hospital

Dear Virginius:

Dee is in for determination of a permanent partial impairment. We are looking at her left knee, her right knee, her low back and her right shoulder. We are well aware of the pertinent history regarding these and these do not need to be repeated here.

Her range of motions and exams were performed in the office today and these were then applied to the *AMA Guides for Determination of Permanent Impairment*, edition 3.

With regard to her left knee, she is able to flex to 90° and has a 15° flexion contracture of the knee. The flexion contracture is rated as 3% and the degree of flexion done at 90° is rated at 21% impairment of the knee. Her arthritis with a maximum grade of 20% allowable would be graded at 15%. These add, nonlinearly using the combined value scale, to 34% impairment of the leg, which converts to a 14% whole person permanent impairment.

With regard to the right knee, she has a flexion contracture of 3°, flexion down to 110°, and mild grinding of the patellofemoral mechanism on range of motion. Range of motion loss would yield a 14% impairment and arthritis would add another 10%, but using the combined value scale for addition, this would add to 23% impairment of the leg for a 9% whole person permanent partial impairment of the right leg.

With regard to her right shoulder, her abduction is 90° actively, external rotation is 70°, internal rotation is 60°. These could be combined for motion loss. However, on page 44, we find a table for joint crepitus and range of motion and find that her inconsistent grinding crepitus in her right shoulder already yields a 10% impairment of the joint. The joint of the shoulder is rated at 60% of the arm, therefore, she would have a 6% loss of function of the arm for the arthritic component and rotator cuff problems of the right

Re: DeEtta B. Gerbich
March 23, 1993
page 2

shoulder. This would convert to a 4% whole person permanent impairment for the right shoulder region.

With regard to her low back, she has been told by Dr. Johnson that she probably has a herniated disc and she certainly has signs, symptoms and history consistent with a clinically established disc derangement, which has now been going on for more than six months. Using table 49, this would be rated as a 6% whole person permanent impairment, although this could change if she did, indeed, have the CT scan which is able to document a much more significantly herniated disc.

Using the above values for whole person impairment, and then adding again, using the combined value scale, we derive a 29% whole person permanent partial impairment for all of the above conditions combined. This could change pending further diagnostic work-ups, but I would recommend a neurological consultation to further delineate the low back loss and nerve root impairments. Also, with a neurological consultation evaluation of the upper extremities, especially on the right, to evaluate potential nerve root impingement from the cervical spine versus C8 distribution coming down into the arm.

Sincerely,



Gary R. Zeluff, M.D.

GRZ:pt-sa

TOTAL F.83

0.01

160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84111

EXH. "E"

MEDICAL REPORT

FORWARD IMMEDIATELY AFTER FIRST SEEING PATIENT

Name of Employer	NATJUM		DM # 561-8883	
(IMPORTANT ASCERTAIN OPERATING TITLE OF COMPANY—NOT NAME OF FOREMAN, ETC.)				
Address of Employer	3580 W 90th S			
Employer's Workmen's Compensation Insurance Carrier				
Name of Injured	Dottie Gerlach		Phone No. 255-1334	
Residence Address	1457 W 750th S W-T UT 8-1084		S.S. Number 528-35-1334	
Date and Hour of Injury	4-11-89 18:30		19__ P M Age 56 Sex F	
Date Injured Had to Leave Work	4-11-89 18:30		19__ P M	
Statement of patient as to how injury was sustained.	hurt back lifting P in CT scan			
2 Give nature and extent of injuries. Patient must be thoroughly examined for all possible injuries due to the accident, and this first report must be complete in detail. (If additional space is needed, use reverse side.)	Acute L/S syndrome c ? sciatica R/O disk herniation			
3 In your opinion, is present trouble due to any pre-existing condition? If so, what?	NO			
4 When will employee be able to return to work?	will try 4/12/89			
5 Will any permanent injury or deformity result? If so, to what extent?	unclear @ present			
6 Give names of all physicians or surgeons who have examined patient for present injury.	PAUL E. PILGRAM M.D. 1989			
7 Name of hospital. Date hospitalized	HOLY CROSS JORDAN VALLEY HOSPITAL			

Section 35-1-98, Utah Code Annotated, as amended, provides that: any physician or surgeon who refuses or neglects to make any report at any time required by the Commission is guilty of a misdemeanor, and shall be punished by a fine of not more than \$500.00 for such offense. Rule 1 of the Medical and Surgical Fee Schedule requires this "Medical Report" to be mailed to the Commission within one week after first attendance. Rule 10 requires written consent from the Commission before an injured employee can change doctors. The attending Physician must not express an opinion as to whether or not the injury is industrial unless requested by the Commission.

Date first Examined Patient	4/13	19 89	Signed	Paul E. Pilgram M.D.	Surgeon
Date of This Report	4/13	19 89	Address: Street		
			City		

00538

Holy Cross Jordan Valley Hospi

West Jordan, UT 84064

R B HOLT MD

Radiologists

(30) 3049-89

GERBICH, DELETTE

3190064

DOB

6-3-32

X RAY NO

4-13-89

DATE

ED

PHYSICIAN

BREISCH

AL INFORMATION

Trauma

LUMBAR SPINE:

Routine views comprise the study. The examination demonstrates some scattered degenerative changes. There is some mild narrowing of the intervertebral disc space at the L4-5 level. There is no evidence of acute bony trauma or subluxation.

CPT 72100

ICD-9: 724.2

JS

D&T: 4-14-89

RECEIVED

JUN 10 1989

Rym/Am

R G MITCHELL MD

XXX

CHIEF OF MEDICAL STAFF

BOISE IDAHO

G P STEVENSON MD

D F GOWANS MD

N BENNETT MD

R BRINTON MD

R B HOLT MD

OPERATED BY SISTERS OF THE HOLY CROSS										561 8823	
UNIT	DR.	DR.	ADM BY	TIME	AGE	DATE OF BIRTH	SOCIAL SEC.	SEX	PIL	PLANT NO.	
1	129		3027	09:18	056	06-03-32	628384				
PATIENT NAME: RICH, DEETIE					1487 W 7800 SO			WEST JORDAN UT 84084			
OCCUPATION: RADIOLOGY					EMPLOYER: HCJVH			EMPLOYEE'S TEL NO: 801-562-7000			
GUARANTOR'S ADDRESS: 1487 W 7800 SO					CITY/STATE: WEST JORDAN UT			ZIP: 84084			
GUARANTOR'S OCCUPATION: RADIOLOGY					GUARANTOR'S EMPLOYER: HCJVH			GUARANTOR'S TEL NO: 801-562-7000			
EMPLOYER'S ADDRESS: W 9000 SO					CITY/STATE: W JORDAN UT			ZIP: 84088			
GUARANTOR'S SOC SEC NO: 628-38-4384					RELATIVE'S ADDRESS:			CITY/STATE:			
RELATIVE'S NAME: GIVEN					RELATIVE'S ADDRESS:			CITY/STATE:			
SERIAL: 890					NAME OF INSURED: GFRICH, DEETIE			POLICY NO: 628 38 4384			
CODE: 890					NAME OF INSURED: GFRICH, DEETIE			POLICY NO: 628 38 4384			
DISCHARGE DATE & TIME: 04-11-89 18:30					MED REC NO: 3024						
PHYSICIAN: BREISCH MD, STUART T					REL. GON: NRA						
ADMISSION DATE & TIME: 04-11-89 18:30					MED REC NO: 3024						
CLIN. NOTES											

Returned p Am injury 2 X-ray. Cant LBP all day
 sustained lifting pt in CT. E sig LB bx. feels some aching
 @ buttocks + post thigh to knee. felt pop @ time injury. Needs
 few pain pills to sleep. Has Feldene

Exam: obese @. Tender L4-S1 midline. Tender sacral
 notch (R)
 DTR's 2/4 fts, 2/4 ach - motor 5/5 dorsiflexion antk
 (R), 5/5 (L) ESR.

Imp. Acute US syndrome
 R/O disk herniation

P - bed Rest, Cant Feldene
 discussed poss disk, may need CT
 Vicodin III to go 9 R = 74.

RECEIVED

MAY - - 1989

WRIGHTS ADJUTANT CO
 BOISE IDAHO

22

THE INDUSTRIAL COMMISSION OF UTAH

160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84111

MEDICAL REPORT

FORWARD IMMEDIATELY AFTER FIRST SEEING PATIENT

Name of Employer

Holy Cross Jordan Valley Hospital

Address of Employer

340 W. 1st St. - Jordan - UT 84098

Employer's Workmen's Compensation Insurance Carrier

Industrial

Name of Injured

Paul Smith

Phone No.

254-304

Residence Address

1441 W. 1st St.

E.E. Number

512-30-184

Give Date and Hour of Injury

1-10-90 14:00

Day

Month

Year

Hour

Minute

Second

Day

Month

Year

Date Injured Had to Leave Work

1-10-90 14:00

Day

Month

Year

Hour

Minute

Second

Day

Month

Year

1. Statement of patient as to how injury was sustained.

Slipped on wet floor @ work

2. Give nature and extent of injuries. Patient must be thoroughly examined for all possible injuries due to the accident, and this report must be complete in detail. If additional space is needed, use reverse side.

*Right arm @ knee & forearm
Right arm @ wrist
Right arm @ shoulder*

3. In your opinion, is patient liable due to any pre-existing condition? If so, what?

No

4. When will employee be able to return to work?

Now

5. Will any permanent injury or deformity result from this injury?

No

6. Give names of all physicians or surgeons who have examined patient for present injury.

Paul H. Filcox

7. Name of hospital.
Date hospitalized

Holy Cross Jordan Valley Hospital

Section 52-1-4, Utah Code Annotated, as amended, provides that any physician or surgeon who refuses or neglects to make any report as hereinafter required by the Commission is guilty of a misdemeanor, and shall be punished by a fine of not more than \$500.00 for each offense. Part 1 of the Medical and Surgical Forfeiture Statute (the "Medical Report") to be made by the Commission shall be made by the physician or surgeon who examines the injured person. The Commission shall have the right to require any physician or surgeon who examines the injured person to make a report as hereinafter required by the Commission. The report shall be made in duplicate, one copy to be filed with the Commission and one copy to be retained by the physician or surgeon. The report shall be made in duplicate, one copy to be filed with the Commission and one copy to be retained by the physician or surgeon.

Date First Examined Patient

1/10/90

Date of This Report

1/10/90

1. ORIGINAL: INDUSTRIAL COMMISSION 2. INSURANCE CARRIER 3. FILE COPY 4. PATIENT FOLDER (BILLING COPY)

FORM 122 REV

HOLY CROSS JORDAN VALLEY HOSPITAL

EMERGENCY DEPARTMENT

3580 WEST 9000 SOUTH • WEST JORDAN UTAH 84088

(801) 562-4242

PHYSICIAN REPORT

NAME GERBICH, DEETTE DATE OF BIRTH 6/3/32
 PATIENT NO 3330036 DATE OF SERVICE 1/10/90

SUBJECTIVE: This 57 year old employee slipped on a wet floor in the emergency room and complains of aching in the left knee, right ankle and the right shoulder area. The patient had been able to continue working, but states that now the pain is getting worse in most areas.

PAST MEDICAL HISTORY: Significant for surgical repair to the right rotator cuff about 20 years ago and for repair of the left cruciate ligament approximately 20 years ago. There was no loss of consciousness and the patient denies chest or abdominal pain.

OBJECTIVE: The patient is alert and oriented and working in the emergency department currently. Examination of the right shoulder, there is no definite point tenderness, swelling or deformity. There is full range of motion except for the last 20 degrees of abduction. Neurovascular is intact. X-ray is negative for acute disease. On examination of the right ankle, there is swelling and tenderness over the lateral aspect. There is no medial or posterior tenderness. Neurovascular is intact. There is full range of motion. There is no laxity on varus, valgus stress or drawer. X-ray is negative for acute disease. On examination of the left knee, there are old well-healed surgical scars. There appears to be a moderate effusion. Range of motion is limited by pain and swelling. Neurovascular is intact. There is no definite laxity on varus, valgus stress or drawer, but the exam is difficult secondary to swelling. X-ray shows no acute disease.

ASSESSMENT:

1. Acute sprain left knee with effusion.
2. Acute sprain right ankle, 2nd degree
3. Acute strain right shoulder

PLAN:

1. The patient was placed in a knee immobilizer and advised to ice and elevate and to be non-weight bearing over the next several days.
2. She was advised to ice and rest the ankle and shoulder area.
3. She was given a prescription for Feldene #20 to take 1 p.o. q.h.s. and a prescription for Percocet #20 to take 1-2 p.o. q.h.s. She was also given 4 Vicodin to go for this evening.
4. She will follow-up with Dr. Zeluff this week if not 100% or immediately if worse.

CONDITION ON DISCHARGE Splinted.

PROCEDURES Exam.

DATE 1/10/90 BY M. D.

03550

THE INDUSTRIAL COMMISSION OF UTAH

160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84111

MEDICAL REPORT

FORWARD IMMEDIATELY AFTER FIRST SEEING PATIENT

Name of Employer

HCTVH

(IMPORTANT: ASCERTAIN OPERATING TITLE OF COMPANY—NOT NAME OF FOREMAN, ETC.)

Address of Employer

3580 W. 9800 So. N.O. 4th 84068

Employer's Workmen's Compensation Insurance Carrier

Continental

Name of Injured

Herbich, Nate

Phone No

Residence Address

2604 Dimple Hill

S. S. Number

528-38-4381

Give Date and Hour of Injury

10-19-90 11:00

1990

A

M

Age

58

Sex

M

Date Injured Had to Leave Work

19

M

1 Statement of patient as to how injury was sustained

Slipped in parking lot 10/19/90

2 Give nature and extent of injuries. Patient must be thoroughly examined for all possible injuries due to the accident, and this first report must be complete in detail. (If additional space is needed, use reverse side.)

Acute sprain / contusion Oknee

3 In your opinion, is present trouble due to any pre-existing condition? If so, what?

? No

4 When will employee be able to return to work?

Unknown

5 Will any permanent injury or deformity result? If so, to what extent?

Unknown

6 Give names of all physicians or surgeons who have examined patient for present injury.

RUTH H. FILLON

7 Name of hospital
Date hospitalized

HOLY CROSS JORDAN VALLEY HOSPITAL

Section 35-1-98, Utah Code Annotated, as amended, provides that any physician or surgeon who refuses or neglects to make any report at any time required by the Commission is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 for each offense. Rule 1 of the Medical and Surgical Fee Schedule requires that "Medical Report" to be mailed to the Commission within one week after first attendance. Rule 10 requires written consent from the Commission before an injured employee can change doctors, and attending Physician must not express an opinion as to whether or not the injury is industrial unless requested by the Commission.

Date first Examined Patient

10/24 19 90

Signed

R. Lyons

Surge

Date of This Report

19

Address Street

City

EMERGENCY DEPARTMENT		OPERATED BY SISTERS OF THE HOLY CROSS									
477835	DATE 10-24-90	I	S	F	058	DATE OF BIRTH 06-03-32	528384384	390	255	9885	18 20
GERBICH, DEETTE		2204 DIMPLE DELL					SANDY		UT		8405
31-999-9999		RADIOLOGY					HCJVH		801-562-700		
GERBICH, DEETTE		2204 DIMPLE DELL					SANDY		UT		8405
31-999-9999		RADIOLOGY					HCJVH		801-562-700		
580 W 9000 SO		W JORDAN					UT		84088		528384384
ONE GIVEN											
INDUSTRIAL CONTINENTAL		8800		GERBICH, DEETTE			528384384				00
											36024
JOSS INJ LT KNEE/SLIPPED		10-19-90		11:00		JOHNSON MD, KEVIN B				LD	

- PHYSICIAN NOTES
- (S) Pt. slipped in parking lot 10/19 + returned
 - (L) knee (Hx prev. surgery, remote + injury 1/90 + resultant chronic) (L) knee aching 1st
 - (O) Alert, O x 3, NAD
 - (L) knee old surgical scars, ? effusion
 - ✓ ROM 2° pain. No definite laxity on VPI stress or drawer
 - (A) Acute sprain/contusion (L) knee.
 - (P) Fr Br. Thomas ⇒ has apt in Apt. Post. ice, elev.

ADJUTANT
EDWARDS

160 EAST 300 SOUTH
SALT LAKE CITY UTAH 84111

ExH. "H"

MEDICAL REPORT

FORWARD IMMEDIATELY AFTER FIRST SEEING PATIENT

Name of Employer H. J. V. H. 561-8888
(IMPORTANT ASCERTAIN OPERATING TITLE OF COMPANY - NOT NAME OF FOREMAN ETC.)

Address of Employer 3550 W. 91st St. N. N. 1st St. N. 84088

Employer's Workmen's Compensation Insurance Carrier Continental

Name of Injured Robert A. G. G. G. Phone No. 572-5849

Residence Address 2204 11th St. N. N. N. N. S. S. Number 528 384 284

Give Date and Hour of Injury 4-17-91 1300 19__ M. Age 58 Sex F

Date Injured Had to Leave Work _____ 19__ M.

1 Statement of patient as to how injury
was sustained

Consider all $\sigma \in S_n$ such that

2 Give nature and extent of injuries. Patient must be thoroughly examined for all possible injuries due to the accident and this first report must be complete in detail. (If additional space is needed, use reverse side)

Best 10-70 MCL TBR
(2) Kneel

3 In your opinion, is present trouble due to any pre-existing condition? If so, what?

No

4 When will employee be able to return to work?

Taten und Geist.

5 Will any permanent injury or deformity result? If so, to what extent?

No

6. Give names of all physicians or surgeons who have examined patient for present injury

20151
Suzanne T. Bressan

7. Name of hospital.
Date hospitalized

HOLY CROSS JORDAN VALLEY HOSPITAL

Section 35-1-98, Utah Code Annotated, as amended, provides that any physician or surgeon who refuses or neglects to make any report at any time required by the Commission is guilty of a misdemeanor, and shall be punished by a fine of not more than \$500.00 for such offense. Rule 1 of the Medical and Surgical Fee Schedule requires this "Medical Report" to be mailed to the Commission within one week after first attendance. Rule 10 requires written consent from the Commission before an injured employee can change doctors. *The attending physician must not express an opinion as to whether or not the injury is industrial unless requested by the Commission.*

Date first Examined Patient _____ 19 ____ Signed [Signature] Surgeon

Date of This Report _____ 19 ____ Address: Street _____

City _____

HOLY CROSS JORDAN VALLEY HOSPITAL
EMERGENCY DEPARTMENT

3580 WEST 9000 SOUTH • WEST JORDAN UTAH 84088
(801) 562-4242

PHYSICIAN REPORT

PATIENT. GERBICH, DEETTE DATE OF BIRTH 06/03/32
PATIENT NO 3565122 DATE OF SERVICE 04/18/91

SUBJECTIVE: This is a 58-year-old female, radiology tech at HCHJVH who yesterday, experienced a blunt injury to the lateral aspect of her right knee when a film cassette fell against her leg. This caused a valgus stress on the knee and since then she has had pain over the medial collateral ligament. She had difficulty sleeping last night due to the pain and can bear weight on it this morning at work but it is still quite painful. She denies any prior significant injury to her knee in the past.

PAST MEDICAL HISTORY: Not contributory to this injury.

OBJECTIVE

GENERAL: Exam reveals an alert female in no acute distress.

EXTREMITIES: There is point tenderness over the medial collateral ligament of the right knee. There is no effusion clinically. Lachman's test was negative. Valgus stress of the knee elicited pain over the medial collateral ligament and there was minimal if any instability on stress. There was an excellent endpoint. Distal neurovascular exam to the lower leg was intact. The patient was able to fully extend and almost fully flex her knee when the medial collateral ligament was relaxed.

LABORATORY DATA: X-ray reveals no evidence of fracture. There were multiple bony spurs and arthritic changes visible on this film.

ASSESSMENT: Acute first to second degree medial collateral ligament tear, right knee.

PLAN: The patient was immobilized in a long-leg knee immobilizer for support. She will avoid any type of motions that cause pain. She will use ice packs to control swelling and was given a prescription for Hyphen #20 to use as needed for pain primarily at bedtime. She will return for re-evaluation in about 2-1/2 weeks and will be removed from the knee immobilizer when there is no pain on stress of the medial collateral ligament on exam. She will be allowed to continue her work as a radiology technician with the splint on if she can do so without much pain.

CONDITION ON DISCHARGE: No distress, right knee splinted.

THE INDUSTRIAL COMMISSION OF UTAH

160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84111

EXH "I"

MEDICAL REPORT

FORWARD IMMEDIATELY AFTER FIRST SEEING PATIENT

Name of Employer HOLY CROSS JORDAN VALLEY HOSPITAL
(IMPORTANT ASCERTAIN OPERATING TITLE OF COMPANY - NOT NAME OF FOREMAN ETC)

Address of Employer 3580 W. 9000 S., WEST JORDAN, UT 84088

Employer's Workmens Compensation Insurance Carrier CONTINENTAL INSURANCE

Name of Injured DEETTE GERBICH Phone No 801-572-5849

Residence Address 2240 E. DIMPLE DELL S S Number 528-38-4389

Give Date and Hour of Injury 08-24-91 1991, P M Age 59 Sex F

Date Injured Had to Leave Work _____ 19__ M

1. Statement of patient as to how injury was sustained	<i>lifting & assisting 280# patient from CT table</i>
2. Give nature and extent of injuries. Patient must be thoroughly examined for all possible injuries due to the accident, and this first report must be complete in detail (If additional space is needed, use reverse side)	<i>Acute (P) shoulder/back strain</i>
3. In your opinion, is present trouble due to any pre-existing condition? If so, what?	<i>NO</i>
4. When will employee be able to return to work?	<i>working</i>
5. Will any permanent injury or deformity result? If so, to what extent?	<i>unlikely</i>
6. Give names of all physicians or surgeons who have examined patient for present injury	<i>PAUL E. PRIGRAM M.D.</i>
7. Name of hospital. Date hospitalized	<i>HOLY CROSS JORDAN VALLEY HOSPITAL</i>

Section 35-1-98, Utah Code Annotated, as amended, provides that any physician or surgeon who refuses or neglects to make any report at any time required by the Commission is guilty of a misdemeanor, and shall be punished by a fine of not more than \$500.00 for such offense. Rule 1 of the Medical and Surgical Fee Schedule requires this "Medical Report" to be mailed to the Commission within one week after first attendance. Rule 10 requires written consent from the Commission before an injured employee can change doctors. The attending Physician must not express an opinion as to whether or not the injury is Industrial unless requested by the Commission.

Date first Examined Patient 8/21 19 91 Signed Paul Prigram M.D. Surgeon

Date of This Report 8/24 19 91 Address Street _____ City CROSS

PHYSICIAN REPORT

PATIENT: GERBICH, GEETE DATE OF BIRTH: 06/03/32
PATIENT NO 3749690 DATE OF SERVICE: 08/25/91

SUBJECTIVE: This 59 year old female presents for evaluation of shoulder discomfort sustained when lifting and assisting a 280 lb. patient from her CT gantry table this afternoon at work. She felt a pulling sensation at that time and has since had increasing stiffness and discomfort and when she came to the emergency department to perform a CT scan asked to be checked.

PAST MEDICAL HISTORY: The patient has a significant past medical history of arthritis for which she is currently taking Voltaren with Carafate and meticulously watching her stools for occult blood. The patient last year had a substantial upper GI bleed requiring 5 or 6 units of transfused blood. Her other regular medications include Zestril and Estrogens. She has allergies to Penicillin, Demerol and aspirin. *141*

OBJECTIVE

GENERAL: Examination of the patient reveals a pleasant, somewhat uncomfortable appearing woman with a blood pressure of 124/72, temperature 98.6, pulse 96, respirations 16.

BACK: Examination of the back reveals tenderness of the right rhomboideus major and minor and of the right teres group. There is mild tenderness of the trapezius at it's insertion on the scapula with no spinous process or scapular tenderness. The AC joint is nontender and the deltoids are nontender. The left posterior hemithorax is unremarkable.

IMPRESSION: Acute right shoulder strain.

PLAN: #1 The patient is advised to continue her Voltaren and conscientiously watch her stools for occult blood. She is provided two Darvocet to go and one Halcion to assist with sleep. The patient, given her unusual work schedule, has taken some 15 mg. Doral in the past and she received an additional prescription for #50.

#2 She is discharged in stable condition. I took the patient to the CT scanner to perform that study and will follow up either here or with Dr. Kevin Johnson should she fail to resolve with time.

010510/4/5

*SEP 26 1991
JSS*